

**CRIMINAL BACKGROUND CHECKS ON MOTOR  
VEHICLE DEALERS AND SALESPERSONS**

2010 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill modifies the Motor Vehicle Business Regulation Act and the Public Safety Code by amending provisions relating to criminal background checks on motor vehicle dealers and salespersons.

**Highlighted Provisions:**

This bill:

- ▶ requires every applicant for a motor vehicle dealer or salesperson license to submit fingerprints with a completed application to the Motor Vehicle Enforcement Division;
- ▶ provides that the Motor Vehicle Enforcement Division shall submit fingerprints for each applicant to the Bureau of Criminal Identification;
- ▶ requires the Bureau of Criminal Identification to:
  - compare motor vehicle dealer and salesperson applicant fingerprints with certain criminal databases and inform the Motor Vehicle Enforcement Division of its findings; and
  - maintain a separate file of motor vehicle dealer and salesperson fingerprints and notify the Motor Vehicle Enforcement Division when a new entry is made concerning a person in the file regarding an arrest for certain offenses;
- ▶ provides that the Motor Vehicle Enforcement Division shall pay the costs incurred by the Bureau of Criminal Identification from fees paid by those submitting fingerprints;
- ▶ provides that the Motor Vehicle Enforcement Division shall use information received from the Bureau of Criminal Identification to determine whether a license should be denied, suspended, or revoked; and
- ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill takes effect on July 1, 2010.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **41-3-209**, as last amended by Laws of Utah 2008, Chapter 382

39 **53-10-202**, as renumbered and amended by Laws of Utah 1998, Chapter 263

40 ENACTS:

41 **41-3-205.5**, Utah Code Annotated 1953

42

43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **41-3-205.5** is enacted to read:

45 **41-3-205.5. Licenses -- Criminal background check required on dealer's and**  
46 **salesperson's licenses -- Payment of cost.**

47 (1) (a) Every applicant for a dealer's or salesperson's license shall submit fingerprints  
48 with a completed application to the division.

49 (b) For purposes of Subsection (1)(a), an applicant for a dealer's license includes every  
50 owner, partner, officer, or director of the dealer.

51 (2) The division shall submit fingerprints for each applicant described in Subsection  
52 (1) to the Bureau of Criminal Identification established in Section 53-10-201.

53 (3) The Bureau of Criminal Identification shall:

54 (a) check the information submitted by the division for an applicant under Subsection  
55 (2) against the applicable state and regional criminal records databases; and

56 (b) release to the division all information obtained under Subsection (3)(a) relating to  
57 the applicant.

58 (4) (a) The Bureau of Criminal Identification shall maintain a separate file of  
59 fingerprints submitted under Subsection (2) and notify the division when a new entry is made  
60 in the applicable state and regional database against a person whose fingerprints are held in the  
61 file regarding any matter involving an arrest under state law involving:

62 (i) motor vehicles;

63           (ii) controlled substances;

64           (iii) fraud; or

65           (iv) a registerable sex offense under Section 77-27-21.5.

66           (b) Upon request by the division, the Bureau of Criminal Identification shall inform the  
67 division whether a person whose arrest was reported to the division under Subsection (4)(a)  
68 was subsequently convicted of the charge for which the person was arrested.

69           (5) The division shall pay the costs incurred by the Bureau of Criminal Identification  
70 under Subsections (3) and (4) from fees charged by the division to those submitting  
71 fingerprints.

72           (6) The division shall use information received from the Bureau of Criminal  
73 Identification under this section to determine whether a license should be denied, suspended, or  
74 revoked under Section 41-3-209.

75           Section 2. Section **41-3-209** is amended to read:

76           **41-3-209. Administrator's findings -- Suspension and revocation of license.**

77           (1) If the administrator finds that an applicant is not qualified to receive a license, a  
78 license may not be granted.

79           (2) (a) If the administrator finds that there is reasonable cause to deny, suspend, or  
80 revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the  
81 license.

82           (b) Reasonable cause for denial, suspension, or revocation of a license includes, in  
83 relation to the applicant or license holder or any of its partners, officers, or directors:

84           (i) lack of a principal place of business;

85           (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax  
86 Act;

87           (iii) lack of a bond in effect as required by this chapter;

88           (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson  
89 license issued in another state;

90           (v) nonpayment of required fees;

91           (vi) making a false statement on any application for a license under this chapter or for  
92 special license plates;

93           (vii) a violation of any state or federal law involving motor vehicles;

(viii) a violation of any state or federal law involving controlled substances;

(ix) charges filed with any county attorney, district attorney, or U.S. attorney in any court of competent jurisdiction for a violation of any state or federal law involving motor vehicles;

(x) a violation of any state or federal law involving fraud; or

(xi) a violation of any state or federal law involving a registerable sex offense under Section 77-27-21.5.

(c) Any action taken by the administrator under Subsection (2)(b)(ix) shall remain in effect until a final resolution is reached by the court involved or the charges are dropped.

(3) If the administrator finds that an applicant is not qualified to receive a license under this section, the administrator shall provide the applicant written notice of the reason for the denial.

~~[(3)]~~ (4) If the administrator finds that the license holder has been convicted by a court of competent jurisdiction of violating any of the provisions of this chapter or any rules made by the administrator, or finds other reasonable cause, the administrator may, by complying with the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

(a) suspend the license on terms and for a period of time the administrator finds reasonable; or

(b) revoke the license.

~~[(4)]~~ (5) (a) After suspending or revoking a license, the administrator may take reasonable action to:

(i) notify the public that the licensee is no longer in business; and

(ii) prevent the former licensee from violating the law by conducting business without a license.

(b) Action under Subsection ~~[(4)]~~ (5)(a) may include signs, banners, barriers, locks, bulletins, and notices.

(c) Any business being conducted incidental to the business for which the former licensee was licensed may continue to operate subject to the preventive action taken under this subsection.

Section 3. Section **53-10-202** is amended to read:

**53-10-202. Criminal identification -- Duties of bureau.**

125           The bureau shall:

126           (1) procure and file information relating to identification and activities of persons who:

127           (a) are fugitives from justice;

128           (b) are wanted or missing;

129           (c) have been arrested for or convicted of a crime under the laws of any state or nation;

130   and

131           (d) are believed to be involved in racketeering, organized crime, or a dangerous

132   offense;

133           (2) establish a statewide uniform crime reporting system that shall include:

134           (a) statistics concerning general categories of criminal activities;

135           (b) statistics concerning crimes that exhibit evidence of prejudice based on race,

136   religion, ancestry, national origin, ethnicity, or other categories that the division finds

137   appropriate; and

138           (c) other statistics as required by the Federal Bureau of Investigation;

139           (3) make a complete and systematic record and index of the information obtained

140   under this part;

141           (4) subject to the restrictions in this part, establish policy concerning the use and

142   dissemination of data obtained under this part;

143           (5) publish an annual report concerning the extent, fluctuation, distribution, and nature

144   of crime in Utah;

145           (6) establish a statewide central register for the identification and location of missing

146   persons, which may include:

147           (a) identifying data including fingerprints of each missing person;

148           (b) identifying data of any missing person who is reported as missing to a law

149   enforcement agency having jurisdiction;

150           (c) dates and circumstances of any persons requesting or receiving information from

151   the register; and

152           (d) any other information, including blood types and photographs found necessary in

153   furthering the purposes of this part;

154           (7) publish a quarterly directory of missing persons for distribution to persons or

155   entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement; ~~and~~

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520[-]; and

(14) check certain criminal records databases for information regarding motor vehicle dealers and salesperson applicants, maintain a separate file of fingerprints for motor vehicle dealers and salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle dealers and salespersons in accordance with the requirements of Section 41-3-205.5.

**Section 4. Effective date.**

This bill takes effect on July 1, 2010.